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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,705	02/09/2004	Miguel Santiago	1506-319	9543

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INSKEEP INTELLECTUAL PROPERTY GROUP, INC
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GARDENA, CA 90248

EXAMINER

BARNEY, SETH E

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

3P

Office Action Summary	Application No. 10/774,705	Applicant(s) SANTIAGO ET AL.	
	Examiner Seth Barney	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on November 1, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-26 and 34-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-26, 34 and 37-39 is/are rejected.
- 7) ☒ Claim(s) 35 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/31/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-22, and 27-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 1, 2004.

Claim Objections

2. Claims 23 to 26 are objected to because of the following informalities: Claims 23 and 24 recite the limitation "angularly moveable arc stop" in line 7 of claim 23 and line 2 of claim 24. The claim should recite --angularly moveable arc stop member--. Claim 25 recites the limitation "arc stop" in line 2 of the claim. The claim should recite --angularly moveable arc stop member-- or --angularly fixed arc stop--. Claim 26 recites the limitation "fixed arc stop" in line 2 of the claim. The claim should recite --angularly fixed arc stop-- Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 23-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 23, 24, and 26 claims recite an "angularly fixed arc stop member". It is unclear to the examiner what is meant by "angularly fixed".

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Claim 26 recites "a sprinkler stop". As seen on page 22 of the specification it appears as though the "trip stop" is the part that radially flexes the stop surface out of engagement. The examiner suggests the claim should recite --a trip stop-- for consistency with the specification.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 23, rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,540,125 to Gorney et al.

Regarding claim 23, Gorney discloses an adjustable arc sprinkler having:

- an upper rotatable sprinkler housing (13)

- a lower stationary sprinkler housing (10)

- an arc stop assembly interposed between the upper and lower housing. See

Figure 1.

- the arc stop assembly includes an angularly fixed arc stop member (96) and an angularly moveable arc stop member (98). See column 6 lines 39 to 42 and Figures 9A to 10D.

- at least one position of the angularly moveable arc stop member enables the rotatable sprinkler housing to rotate in one continuous direction. See column 6 lines 52 to 53 and Figures 9A, 9B, 10A, and 10B.

Regarding claim 34, the adjustable arc sprinkler of Gorney has an arc stop moveable between a minimum arc setting and a full circle setting. See Figures 9C, 9D, 10C and 10D for minimum arc setting and figures 9A, 9B, 10A, and 10B for full circle setting. Furthermore, the adjustment between the settings would not change the vertical height of the sprinkler.

Regarding claim 37, the arc stop is positioned outside the path of a trip mechanism (84) when the arc stop is located at the full circle setting. See column 7 lines 7 to 10.

Regarding method claims 38 and 39, the apparatus shown by Gorney is capable of performing the method or steps recited in the claim.

Allowable Subject Matter

7. Claims 35 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 3,107,056 to Hunter discloses a rotating sprinkler with stops (55). U.S. Patent No. 5,383,600 to Verbera et al discloses a sprinkler having

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stops (95, 94) and a trip arm (84). U.S. Patent No. 6,050,502 to Clark discloses a sprinkler having a manually adjustable arc assembly.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Seth Barney
Examiner
Art Unit 3752

sb


STEVEN J. GANEY
PRIMARY EXAMINER
1/10/05